IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 6TH FEBRUARY 2007 / 17TH MAGHA 1928

WP(C).No. 16553 of 2003(U)

PETITIONER:

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1. M.T. PARIMALAM, 30 YEARS,
   D/O. P.C. VISHNU MOHAN, PILLERI CHELERI HOUSE,
   PORUNNANNUR AMSOM, P.O. KADAYAD,
   VELLAMUNDA.

2. M.T. GIRISHKUMAR, S/O. P.C. VISHNU MOHAN
   PILLERI CHELERI HOUSE, PORUNNANNUR AMSOM,
   P.O. KADAYAD, VELLAMUNDA.

BY ADV. SRI.V.RAJAGOPAL

RESPONDENTS:

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1. DISTRICT COLLECTOR, WAYANAD.

2. STATE BANK OF INDIA, NJUKUNNU BRANCH,
   KELLUR P.O., REPRESENTED BY BRANCH MANAGER.

3. TAHSILDAR, MANANTHAVADI.

BY ADV. SC SBI
SRI.P.G.PARAMESWARA PANICKER
SRI.P.GOPAL
GOVERNMENT PLEADER – ADV. SMT. R.BINDU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/02/2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO. 16553/2003

ORDER ON I.A. NO. 1453/2003 IN WPC NO.16553/2003

DISMISSED.

06/02/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 COPY OF THE AGRICULTURAL CREDIT PASS BOOK ISSUED BY THE 2ND RESPONDENT.

EXT.P2 COPY OF THE SALE NOTICE ISSUED BY THE 3RD RESPONDENT.

EXT.P3 COPY OF THE REPRESENTATION SUBMITTED TO THE 1ST RESPONDENT.

RESPONDENT'S EXHIBITS

EXT.R2(a) COPY OF RENEWAL NOTICE

EXT.R2(b) COPY OF RENEWAL NOTICE

EXT.R2(c) COPY OF RENEWAL NOTICE.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) NO. 16553 OF 2003 U

Dated, this the 6th day of February, 2007

J U D G M E N T

Petitioners are challenging recovery proceedings on the ground of limitation. However, it is seen from Exts. R2(a), R2(b) and R2(c), produced by the respondent bank, that petitioners have periodically renewed the loan by acknowledging debt. The bank obtained these documents obviously for the purpose of getting over limitation. The next point raised by the petitioners is that the second renewal does not contain details. Even though Ext.R2(b) notice does not contain the amount, after this, petitioners further renewed the loan by Ext.R2(c) notice, which contains all the details. Petitioners claim cannot be allowed because Ext.R2(c) is valid and the bank is entitled to proceed for recovery. In the circumstances, the challenge against RR proceedings on account of limitation is not tenable and hence rejected.

2. However, I feel petitioners can be given an opportunity to settle the liability under OTS benefit. Accordingly, petitioners are directed to remit 10% of the arrears within one month and make an application before the Bank for grant of OTS benefit. If the petitioners

make payment and file an application, the Bank will grant OTS benefit to the petitioners and grant reasonable time to settle the liability under OTS Scheme. Even if the bank cannot grant the OTS benefit to the petitioners, there will be direction to the Bank to waive the penal interest and default interest, if petitioner clears arrears exclusive of such interest before 31/03/2007. If petitioners do not settle the liability as above, the recovery authority can continue with the RR proceedings.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg